



**ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MASSACHUSETTS 01545-5398**

June 1, 2004

PUBLIC HEARING: Town of Shrewsbury, 476 Hartford Turnpike, Shrewsbury, MA.

PURPOSE: To hear the appeal of the Town of Shrewsbury, 100 Maple Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section III, Subsection E, to allow the construction of a municipal fire station upon property located at 476 Hartford Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 48 as Plot 9-1.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 17, 2004 and May 24, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Chief LaFlamme passed out information packets to the board members.

Mr. Hale: Thank you Mr. Chairman and members of the board. My name is Michael Hale. I'm the assistant town manager. With me tonight is Fire Chief Gerald LaFlamme.

As the chairman mentioned, the Town of Shrewsbury is seeking a special permit under Section III, Subsection E, of the Zoning Bylaw. At the annual town meeting on May 19 2004, the town meeting members voted to authorize the board of selectmen to acquire a 4.13 acre parcel of land located at 476 Hartford Turnpike for the purpose of constructing a new fire headquarters. The vote at that meeting on that evening was 138 in favor and 2 opposed.

This is a parcel that has been historically used as a trucking terminal. In many times of the year, the operation was 24/7. There have been noise complaints through the years for the previous operators of the building. On April 27th the

chief and I, as well as the board of selectmen, held a public hearing and invited the abutters to attend to seek input on this proposal. The meeting was televised and the general consensus of those present was that they were supportive of this concept. They had 2 primary concerns. One was the screening to the rear of the lot and also the siren noise generated from the fire trucks. The screening issue we can easily address. The siren noise, we informed them, would be more difficult to address as that is the nature of the business.

We are more than half way through our due diligence. We have a purchase and sales agreement with the owner, Lommar Trucking, that runs through mid July. We conducted a Phase I Environmental Assessment 21 E that we received a favorable report on. We then did some additional testing last week on various parts of the site where there had been some underground fuel storage tanks that were removed in the mid 80s as well as an above ground fuel storage tank in the rear of the lot. Those tests we dug with a backhoe with an engineering firm, GZA. We did find some traces of fuel in the ground. GZA has sent them to a lab. We're awaiting the test results.

The time line for this project, if all goes well, is that the design development will be done over the course of the summer. We'll go to a fall town meeting for approval and funding of the project that will require a debt exclusion vote tied to the November presidential election on November 2nd. If that passes, we will go to full design with bidding in June of 2005 and construction to begin in the summer of 2005.

The chief is going to provide you with a brief overview of the buildings and the prospective site.

Chief LaFlamme: Thank you Mr. Chairman. In viewing the parcel to the right, this has been conceptualized by the design consultants that we have working with us. We looked at 3 different patterns of laying out the building on the property. We found this one to be the most conducive to traffic flow around the property. Basically, this is a 2-story, 7,800 sq. ft. footprint for the administrative half of the building and approximately a 7,000 sq. ft. footprint for the apparatus portion of the building.

There would be a 2-way entrance to the westerly side of the building admitting the public to this area. The red arrow points to where the public would be invited into the building. There would be differentiations of public access and secured areas in the building. Relatively speaking, this portion of the building would be public access. All public business would be done on the first floor of the building. All private residence type places would be up on the second floor. There would be an atrium to put our historic hand tubs, our 150 year old hand tubs, in on display. There's also a classroom which can be modified at any time, between the classroom and the atrium, to be a voting area or any other public use that they wish to use at the property. Around the back of the building will be parking

for the fire fighters, for the employees. Around the far side of the building there will be a driveway for their exit and for apparatus to come through this area and go out that area on the outside of the building.

Right now, the entire lot all the way back to what you see as screenage is completely covered in asphalt. A lot of that asphalt will be removed and there will be grass replicated there for infiltration of water on site. In the back area here, I want to strongly point out to everybody that there is an area that indicates that there will be a future training structure put in that particular part of the site at some point in time. It will be a

2 to 2 ½ story building with metal framework that we will be able to use for ladder work and for intrusion into the building and things like that for training purposes.

Mr. Salerno: Can I ask you chief, before you go any further, regarding the training building, did you say that it's an open building?

Chief LaFlamme: Yes.

Mr. Salerno: Is it going to have a shell or a metal frame?

Chief LaFlamme: Again, conceptually, we're just talking that there will be a structure there that will be used for training. It more than likely will be enclosed with a roof on it. The major reason for this building is for training purposes, for cutting roofs, breaching roofs, entering and leaving windows, etc. It's not a building, per se.

Mr. Salerno: Will there ever be live fire in that building?

Chief LaFlamme: No. The D.E.P. won't allow us to do that in the first place. We're not allowed to have permission to hold live fire training.

Mr. Salerno: When you say "cutting of the roof," what would that entail?

Chief LaFlamme: Basically, there'll be a portion of the roof that will have plywood slab inserts. We will go up there with a saw and work on the roof, on an inclined plane at an elevation.

Mr. Salerno: Will that training always be in the daytime or will there be nighttime training?

Chief LaFlamme: There will be nighttime training, but it will not be this type of training. The nighttime training will be evolutionary, going in the building in the pitch dark, using smoke in the building, machine generated smoke in the building.

Mr. Salerno: All right, so there will be automatic simulators for smoke and flame and heat?

Chief LaFlamme: Not for flame and heat, just for smoke.

Mr. Salerno: Just for smoke?

Chief LaFlamme: Just for smoke.

Mr. Salerno: What's the exhaust system going to be in there?

Chief LaFlamme: The smoke is artificial. It's nontoxic. It's nothing more than coloration, if you will, of the air. Again, this is not a building, per se. It's not a closed, completely tight structure. The ventilation is that we teach them how to ventilate the building.

Mr. Hale: It won't be part of the original construction, but we wanted to bring it up as it's in the future.

Chief LaFlamme: We want to be very sure that everybody understands that this is part of the process that's coming over the duration of time for this property.

Mr. George: Will this structure be something like what the Worcester Fire Department had down on Grove Street?

Chief LaFlamme: Much less.

Mr. George: Much less?

Chief LaFlamme: Much less. It will be much more minimal. Basically, it's a steel frame with some metal cladding over that steel frame to close it in. So, it's not really a building. When you think of a building, we're not building something that you could live in, stay in or anything like that. It's purely a training facility, a training structure. That's why we put on there structure, not the word "building."

Mr. Salerno: What's the size?

Chief LaFlamme: Again, it's conceptual. It can be any size we wish it to be. It could be as little as 10 ft. sq. It could be as much as 20 ft. x 30 ft. or something like that.

Ms. Murphy: So, would you be coming in in the future for an amendment to the special permit in order to erect that or is it your intention to have permission to erect that now?

Mr. Hale: It is our intention to have permission to erect it now.

Chief LaFlamme: The thing is that we would like you to look at the whole package of the concept. That's why we're putting it on the table right now so that we can be sure that everybody is fully aware of what our intentions are.

Ms. Murphy: Do you know what the dimensions of that training structure are going to be?

Chief LaFlamme: No, because we haven't even come up with a plan of what it's going to be. We just want people to know that we're going to be putting something there. I could give you a dimensional number of 20 ft. by 30 ft. That would be basically 2 rooms.

Ms. Murphy: Okay.

Chief LaFlamme: All we need is something to be able to use to simulate smoke conditions.

Mr. George: Ron, on this page here we have a line that goes through the lot, what is that?

Mr. Alarie: That's just a match line where the different tax plates are joined. The site happens to fall on 2 tax plates.

Mr. Gordon: I just have a couple of questions that I think I've gotten the answers to already. When I was on what I would assume was the westerly drive today, it was an F driveway. Also, it's a quick rise over the hill. Mass Highway has said to you that they don't want you to put a light there. You've said that with your trucks, people coming up the hill will see the trucks and stop. My concern is, as I told you, when people come for a permit or something, how do we address that if for some reason they have to go early in the traffic day? I think you told me that you'll be splitting up permitting between there and the current main station?

Chief LaFlamme: Well, all of the operations are in play with the refiguring of how to run the department, like moving the headquarters station down there. One of the things that we have considered is possibly using a time frame during the day, a designated time frame of 9:00 to 11:00 or something like that, to actually have the secretarial staff go to one of the other stations. For example, up at the center of town, there's a possibility we will be able to offer to people the ability to go there instead of having to travel all of the way down here to conduct their business.

Mr. Gordon: So, when we are voting, will you have 2 policemen, 1 on the street and you have to have 1 at the polling place?

Mr. Hale: In some of the polling places, Mel, they do traffic control as well as being inside the building.

Mr. Gordon: So, it's still 1 policeman, but a car also?

Chief LaFlamme: If I may add, they're polling right across the street from us right now over at the Assembly of God Church directly across the street. That is a polling place right now for the Town of Shrewsbury. So, we would be shifting that to the opposite side of the street. So, it would still be in the same neighborhood.

Mr. Gordon: Yes. The other side of the street, being on the westerly side, doesn't have the problem that you're going to have with the traffic coming up the hill. So, I think you're going to have more of a problem than you realize. I just wish we could look into it with an "on-demand light", but the state owns the road.

Mr. Hale: Well, the town engineer had a preliminary discussion with Mass Highway officials. Again, their initial reaction was that it was not merited, but we're still in due diligence process. We can press the issue as we progress with the design.

Mr. Gordon: Also, we won't buy this land until it passes the 21E will we?

Mr. Hale: You've got that right.

Mr. Gordon: It's older land that is sometimes very exciting.

Mr. Salerno: Are you set on the presentation?

Chief LaFlamme: Yes.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition?

I guess my questions concern the training building. I would like something a little more definitive on the future training because that is the outer building that is going to be closest to the neighbors down there on Pheasant Hill Road. It is also the one that will generate the most noise activity or noise level, I would guess, during the training period. Outside of just saying future training structure, we don't really have any conceptual idea of what's going to be there for the neighborhood and how it's going to be used. I think that you have some plans for the buildings out front and what they are going to look like. I'd like to see what the training structure is going to look like. Is it going to rise above the green landscaping, how close it is to the boundary line?

Mr. Hale: I think any building we build would be more attractive than the existing building and quieter than the operation from the past uses of this site. I think the fire station itself will be a brick veneer, steel construction building. As the chief pointed out, we really haven't taken the training building beyond a concept

because it's not part of the proposed project for the town meeting in the fall. My sense is that it would be more of a butler's style building not to exceed 600 sq. ft.

Mr. Gordon: And the height?

Chief LaFlamme: Two and a half stories.

Mr. Gordon: Two and a half stories?

Chief LaFlamme: That's our typical residence here in town. That's our bread and butter.

Mr. Gordon: What's the height of the station?

Mr. Hale: Two stories.

Mr. Gordon: Two and a half stories, right?

Mr. Hale: Right. At the roof, the difference is a pitched roof.

Mr. Gordon: It would be the same thing?

Mr. Hale: Yes, it would.

Chief LaFlamme: Twenty years ago I would say that I needed a ranch house to train on. Today I need a 2 ½ story to train on and, very shortly, I think we would probably be looking at the possibility of something more appropriate to the 3 stories because of the size of the houses that we're dealing with here in town. For the time being, with the equipment that we have and the equipment that we're purchasing, the 2 ½ story training area is all we need. As I said, It's approximately 20 ft. x 30 ft and I would not need anything larger than that at all. Mr. Salerno: Where is the current training being done?

Chief LaFlamme: We have no training area presently.

Mr. Salerno: Well, where is it being done though?

Chief LaFlamme: We're doing it on buildings that we can get people to let us use while they're building. We go to them at certain stages of the building process and use them or if someone is getting rid of one. Every now and then we have great luck with being able to catch one that we can actually use for live fire training.

Mr. Hale: We do have some confined space training in the headquarters too, in the back there.

Chief LaFlamme: Yes.

Mr. Hale: We do some training down on the lake.

Chief LaFlamme: We lean the ladders up against the Beal School now and then to get a little bit of height out there. It's not really the type of building that we work on.

Mr. Gordon: Are you saying that this would, if we render the decision, be no larger than 600 sq. ft. and no taller than 35 ft.?

Chief LaFlamme: It would be no taller than 2 ½ stories.

Mr. George: How late would the training be done?

Chief LaFlamme: Typically, training is done during the day.

Mr. George: Only during the day?

Chief LaFlamme: Obviously, there are some nights that we will do night training because we have to do some night training. But, typically, our training is all done during the sunshine.

Mr. George: How late would that night training go?

Chief LaFlamme: Typically our night training sessions run 7:00 to 10:00.

Mr. Hale: What we could do is do it in the fall season when it is darker earlier.

Mr. Gordon: When do you feel your concept would be ready to come forward?

Chief LaFlamme: The training?

Mr. Gordon: Yes, the training structure.

Chief LaFlamme: Financially, I'm not considering that until approximately 5 years from now. There are still issues of manpower that we have to attend to before we go through this.

Mr. Gordon: About 2010, is it closer to 2010?

Chief LaFlamme: About 2010, somewhere in that general area.

Mr. Salerno: Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On June 1, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of the Town of Shrewsbury, 100 Maple Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section III, Subsection E, to allow the construction of a municipal fire station upon property located at 476 Hartford Tpke.

The subject site, which is industrially zoned, consists of just over 4 acres of land and it is currently occupied by a trucking terminal. In accordance with approvals granted at the May 2004 Annual Town Meeting, the town proposes to raze the existing building and to then construct a new fire department headquarters building. A portion of the new building would be two stories in height and contain approximately 7,800 sq. ft. per floor. The balance of the structure would be of single story construction and would primarily house the emergency vehicles and equipment having a floor area of 7,200 sq. ft. In the distant future, a small training structure would be erected within the right rear quadrant of the property.

Upon review of this appeal, the board found that the granting of the special permit to allow the use of this site for the aforementioned purposes was in complete harmony with the intent of the Zoning Bylaw in regulating the development of property for municipal purposes. It was their opinion that the construction of a fire station at this location would advance the purposes of the bylaw and would promote the interest of public safety by increasing fire protection throughout the town. It was, therefore, unanimously voted to grant the appeal subject to the following conditions pertaining to the future training facility.

1. The training structure shall not exceed 20 ft. by 30 ft. in dimension or be greater than 2.5 stories in height.
2. The facility shall not be used for training after 10:00 P. M. and shall not be used for said purposes on Sundays.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Mary and Stelios Bitsakis, 53 Hapgood Way, Shrewsbury, MA.

PURPOSE: To hear the appeal of Mary and Stelios Bitsakis, 53 Hapgood Way, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the single family dwelling and a portion of a proposed addition to be constructed upon property located at 53 Hapgood Way as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 28 as Plot 286-68.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 17, 2004 and May 24, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Bitsakis: I apologize; we forgot the plans and my wife went home for them.

Mr. Salerno: Okay. Would you like us to step this back, sir, until she gets back?

Mr. Bitsakis: Yes.

Mr. Salerno: Absolutely, no problem.

Mr. Bitsakis: Thank you.

Mr. Salerno: We will now resume the second 7:00 hearing.

Ms. Bitsakis: I didn't realize that I should have my plans with us.

Mr. Salerno: Okay. Just identify yourself for the record so that she can make an audio record.

Ms. Bitsakis: Mary and Stelios Bitsakis of 53 Hapgood Way.

Mr. Salerno: Thank you. What is it that you'd like to show us?

Ms. Bitsakis presented her plans to the board.

Ms. Bitsakis: We are requesting an addition to our existing home to include an in-law apartment for my mother. It's a 25 x 24 addition to the existing house. It's to the lower level and out to the left of the house. It would be for my mother. She will be maintaining the lower level. There will be a bedroom and a small

kitchenette included in that so that she will not have to climb the stairs if she needs to eat. We're hoping you will grant us permission to do that.

Mr. Gordon: The upstairs will be?

Ms. Bitsakis: It's just an extension of our kitchen and a great room for us, just a family room. The downstairs will be a bathroom, a kitchen and a bedroom connected to the existing home.

Mr. George: Is that going to have a separate entrance?

Ms. Bitsakis: Yes. There will be an entrance from downstairs into her place as well as through the garage and a door out to the back. The existing family room will become her family room. That's why we want an extension upstairs.

Ms. Murphy: What's the square footage on the in-law apartment?

Ms. Bitsakis: Twenty-four by twenty.

Mr. Salerno: Have you given any thought to modifying your existing structure?

Ms. Bitsakis: It's too small.

Mr. Gordon: This requires no variance. Is that right, Ron? It's just a special permit?

Mr. Alarie: That's correct.

Mr. Salerno: You understand, too, the restrictions. You're actually just applying for a special permit for the in-law apartment.

Ms. Bitsakis: Yes. In terms of maintaining?

Mr. Rosen: It allows a limited number of family members.

Ms. Bitsakis: Yes. Oh, definitely. I would not want to have anyone else in my house.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Sir, just identify yourself for the record.

Mr. Johnson: Yes, my name is Carl Johnson. I live at number 51. My property abuts their property. I have no idea where the entrance to this is. I saw the plot plan.

Mr. George: Come take a look at these.

Mr. Salerno: Actually, we should probably just post it right over there for you. We'll pin it right up on the board for you so that everyone can see it.

Mr. Johnson, you're question was where is the entrance to the in-law apartment is going to be? Ma'ma, maybe you can show him that.

Mr. Bitsakis: Yes. It's going to be right here.

Mr. Gordon: In the middle of the house?

Mr. Salerno: Ma'am can you just show us so that everyone can understand?

Ms. Bitsakis: This is the entry way. This is the left side of the house. This portion of the house faces Mr. Johnson's house. So, the bedroom will be facing his house. The entryway will be facing the southern part.

Mr. Salerno: So, the diagram that's right above it shows the 2 garage doors there and your main entrance. Why don't you show him where it is in relationship with the front of your house.

Ms. Bitsakis: This is the front of the house, the garage. The in-law is coming out this way. The whole extension is coming out just like yours. The entry way is here.

Mr. Johnson: I don't have any large objection to what they're doing now. My only objection would be in the future. What are their plans for parking?

Ms. Bitsakis: Adding another garage.

Mr. Johnson: Are there any plans to put a second driveway in on the other side of the house?

Ms. Bitsakis: Yes. Another garage is going in.

Mr. Johnson: No, on the other side?

Mr. Gordon: The garage is going on the same side.

Ms. Bitsakis: No. There's not enough room on the other side.

Mr. Johnson: Well, that's what I'm getting at. What you're doing is fine. From what I see, I'm not going to object to it. In the future, I don't want to see them put a driveway on the other side so that it looks like a two-family home.

Mr. Salerno: Well, it will be on the other side.

Ms. Bitsakis: We've got a drive way there now.

Mr. Salerno: Let's just have one person speak at once because she's got to make the tape.

Mr. Johnson: I'm sorry.

Mr. Salerno: That's okay.

Mr. Johnson: I wouldn't want to see, in the future, a driveway on the other side and have 2 driveways so that the tenant or the in-law could have their own driveway and now it begins to look like a multifamily house as opposed to a single family unit. That's the way that the neighborhood was designed. I'm just trying to maintain the integrity of the neighborhood.

Mr. Salerno: It's a good point.

Mr. Johnson: All of those houses were built about 30 years ago as single families. It's a nice looking neighborhood. I just want to maintain it and not have something that looks like a multifamily. What they have here is fine with me. I'm not objecting to that. I'm objecting to things that will be done in the future.

Mr. Salerno: You're saying that you're going to share the same driveway that you currently have?

Ms. Bitsakis: Yes. There's an additional garage that's being built next to it if you take a look here at this plan. The second garage is not going up to the second level. It will be right next to the existing garage. This will be another garage for multiple cars and she will be coming in this direction right here. It has nothing to do with this side of the house.

Mr. Salerno: You have the 2 garage bays facing in the upper right-hand diagram?

Mr. Bitsakis: Right here.

Mr. Salerno: You're saying that there's going to be a third bay next to that?

Ms. Bitsakis: No.

Mr. Salerno: Oh.

Mr. Bitsakis: This is a new garage.

Mr. Salerno: All right, that's the new garage on the right?

Ms. Bitsakis: Yes.

Mr. Salerno: Can you see that Mr. Johnson?

Mr. Johnson: Yes. I understand the front. What I understand from that, I have no objection with. I have an objection for maybe what happens in the future. Say they sell the property and someone else wants to put a driveway in. That's the kind of thing that bothers me.

Mr. Bitsakis: It is not on the end, it's on the other side.

Mr. Johnson: Well, when I came here tonight, I didn't know where the entrance was. I couldn't tell by the plot plan.

Mr. Salerno: Does that satisfy you?

Mr. Johnson: Well, yes. Is there something that keeps them from doing that in the future? In other words, do they have to come back in here for another variance?

Mr. Salerno: I don't think that they would have to come in for a variance on that, Ron?

Mr. Alarie: No. In terms of a driveway permit, that's a permit that's issued by the highway superintendent. If the board chose to, as long as this was occupied as in in-law, they could set a condition that would stipulate that no driveway could be installed to the northerly side of the house.

Mr. Gordon: That's without coming for a public hearing.

Mr. Alarie: Excuse me?

Mr. Gordon: How about without coming for a public hearing?

Mr. Salerno: Before what board?

Mr. Gordon: The zoning board. What if it's 2 different people and the 2 people agree that it might be alright?

Mr. Alarie: Well, again, if you set that condition, any amendment or waiver of it would require a public hearing.

Mr. Gordon: Okay.

Mr. Johnson: What they have there is fine. It's going to look like the average house in the neighborhood. I have no objection. I just don't want to get something that looks like a multifamily dwelling.

Mr. Salerno: I think it's been addressed and there's the suggestion that it may even become part of the language. We'll vote on that at some point this evening.

Mr. Johnson: Thank you.

Mr. Salerno: Okay. Is there anybody else in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On June 1, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Mary and Stelios Bitsakis, 53 Hapgood Way, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the single family dwelling and a portion of a proposed addition to be constructed upon property located at 53 Hapgood Way as an in-law apartment.

The board reviewed the appellants' proposal to construct an addition to the rear of their home, the basement of which along with a portion of their existing basement they intend to occupy as an in-law apartment, and found both the proposed construction and its occupancy to be in harmony with the intent of the Zoning Bylaw in permitting such accessory living arrangements within a single family dwelling. It was their opinion that the completed structure would be compatible with the general character of other homes within the neighborhood and that the granting of the special permit would not create any condition which would be harmful or injurious to the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the restriction that only the existing driveway may be expanded to provide access to the proposed second garage as represented on the plans submitted by the appellants and that no other driveway shall be installed upon the premises.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Craig Baker, 23 St. James Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Craig H. Baker, 23 St. James Road, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 37 ft. from the rear lot line of property located at 23 St. James Road. The subject premises is described on the Shrewsbury Assessor's Tax Plate 27 as Plot 288.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 17, 2004 and May 24, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Baker: My name is Craig H. Baker. I have some additional plans here.

Mr. Baker presented the additional plans to the board.

Mr. Baker: We have an existing balcony that was put on the house back in 1978. The balcony was built into the house. The balcony actually encroaches on that 40 ft. setback. It actually is around 36 ft. from the rear lot line. In order to enclose it, from what I understand, it's now subject to the setback bylaws. What we would like to do is to enclose that like a sunroom structure using the existing structure that's there and adding to it, obviously, to accommodate the weight of the sunroom structure.

What I have in the packet that I've distributed there, on page 3, are some pictures of the existing structure that I've taken. It shows some photographs of the existing balcony. It's been there since 1978.

Mr. Gordon: So, there'll be no first floor?

Mr. Baker: No, no first floor.

Mr. Gordon: There'll just be a 3-season room on the second floor?

Mr. Baker: Yes. It will project out 3 ft. from the existing house.

Mr. Salerno: How will you support that?

Mr. Baker: It's going to be cantilevered out. The existing structure that is there now has 2 x 10 rafters. What I'm going to do is I'm going to sister those up with additional 2 x 10 rafters 7 ft. back into the house. I've done some design calculations on that. I've also shown that to Mr. Alarie.

Mr. Salerno: You have no problem with that, Ron?

Mr. Alarie: No. Physically and structurally, it can be done. Actually, it's the floor joists, as opposed to the rafters, that are part of the floor system that will be the reinforced to support that structure. It's a relatively light-weight structure with a curved roof and will have virtually no snow load capabilities.

Mr. Baker: The structure actually weighs, when it's all said and done, roughly around 2,500 lbs., including the loading on the floor and things of that nature.

Mr. Salerno: Is it a prefab unit?

Mr. Baker: Yes. You buy the prefab kit and erect it in place.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On June 1, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Craig H. Baker, 23 St. James Road, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 37 ft. from the rear lot line of property located at 23 St. James Road.

The board reviewed the appellant's proposal to enclose part of a deck that presently extends out from the rear wall of his home at its second story level and found that the reduction of the rear yard setback to accommodate this structure, which will only project out 3 ft., would not materially depart from the intent of the Zoning Bylaw. It was their opinion that, in this instance, the literal application of the applicable terms of the bylaw would impose an undue hardship to Mr. Baker and that the installation of the proposed glass enclosure would not adversely impact the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Christopher Szal, 8 Cardinal Circle, Shrewsbury, MA.

PURPOSE: To hear the appeal of Christopher Szal, 8 Cardinal Circle, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 5 ft. from the rear lot line of property located at 8 Cardinal Circle. The subject premises is described on the Shrewsbury Assessor's Tax Plate 25 as Plot 47-56.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 17, 2004 and May 24, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Szal: Christopher Szal. We were looking to put in a 13 ft. x 16 ft. pool in the back of our property. The rear of our property line is really odd. It's not square shaped. The plot plan that the pool contractor drew shows where the pool would be placed. This thing doesn't show that there is a deck on the rear of our house in the same corner where the pool would go. So, when he came to try and measure out to put the lines of the pool, it ended up being about 6 in. underneath the deck. Obviously, they can't do that. The distance that I would prefer to have away from the deck, because it is elevated about 5 ft., is at least 10 ft. I have fears of children possibly trying to jump off of the deck into the pool. That's the main reason I was hoping to get closer to the rear setback line.

Mr. Gordon: Is it going to be different than what your request of the ZBA was?

Mr. Szal: No. It's 15 ft. closer to the rear line.

Mr. Gordon: Ten feet and twenty feet, those aren't going to change?

Mr. Szal: No.

Mr. Alarie: I'm sorry, but it is confusing. I think the plot plan we have in front of us is where it would be placed in conformance with the minimum requirements. But, if you read his application, that wasn't specific as to the exact setback. I believe I wrote it up at the worst case being 5 ft. from the line based on his statement that he wanted it 15 ft. closer to the rear line.

Mr. Szal: Yes, from the line. This doesn't show that there's a deck on the back of the house.

Mr. Alarie: So, you want to push the pool 15 ft. towards the rear of the lot?

Mr. Szal: Towards the rear, yes.

Mr. Alarie: Okay. Then it's consistent with what was advertised.

Mr. Szal: Okay. At the rear of our house, there is nothing, just the woods. I have a picture of that.

Mr. Gordon: This is a cluster that's all open space behind you?

Mr. Szal: Yes. It's basically woods.

Mr. Szal presented the picture to the board.

Mr. Szal: The pool that we originally tried to fit in was the kind that had the corners cut off just so that it fit between those lines as close as possible. This is the pool.

Mr. Salerno: Is it a vinyl liner?

Mr. Szal: Yes. It's stainless steel with, I guess, a vinyl liner over it.

Did you discuss this with your neighbors?

Mr. Szal: Yes.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On June 1, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Christopher Szal, 8 Cardinal Circle, Shrewsbury, MA, for a

variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 5 ft. from the rear lot line of property located at 8 Cardinal Circle.

Mr. Szal's property is part of Ternberry Estates, which is a cluster subdivision, and the rear of his lot abuts part of the open space area dedicated to this neighborhood. Due to the configuration of the parcel and the siting of the existing residence thereon, the board found that the application of the applicable terms of the Zoning Bylaw presents a substantial hardship to the appellant in his attempt to site a pool upon his property. It was their opinion that the reduction of the rear yard setback for the placement of this subsurface structure abutting a tract of open space land would neither derogate from the intent of the bylaw nor have any impact upon the welfare of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Jon L. Revelli, 351 Spring Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Jon L. Revelli, 351 Spring Street, Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 10 ft. from the side lot lines of property located at 351 Spring Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 18 as Plot 23-5.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 17, 2004 and May 24, 2004.

Atty. Revelli: Good evening Mr. Chairman and members of the board. This is our request for setback relief from the side setback requirement of 30 ft. We're looking for a 20 ft. variance of that side setback requirement for the installation of an inground pool.

All of you are familiar with this area of Spring Street. The primary hardship here is the configuration of the lots themselves. It's a subdivision called Grayledge Estates. Up on Grayledge, it was developed at a time when the zoning requirements allowed for those so called "pork chop" lots where our neighbors were able to get frontage on the public way by bringing strips of land down to the public way and opening it up 125 ft. along the road. You can see here, I'm happy to pass this around to the members of the board, that my frontage starts over on my neighbor's property down across my street, again, the public way, Grayledge Estates.

Mr. Gordon: Grayledge isn't a public way, is it?

Atty. Revelli: Grayledge is not. It's a private drive, but it's simply a right-of-way. It's an easement that goes across my property and up the street so everyone has to gain their frontage by coming down somewhere onto Spring Street. Some of my neighbors come all the way down almost to Main Street here where there's a turnaround at the beginning of Spring Street.

My immediate neighbors are Lisa and David Massad, who are actually on the top of the hill some 4 houses away from me. So, they have about 13 acres up here, but they come down about 20 ft., go through my side yard and have 125 ft. over here. Next to me, if you look at the house itself, are my neighbors Ralph and Nancy Dudley. Although they are my immediate neighbors, we are buffered by a section of the Massad property that comes down and opens up for their 125 ft. I just bring that to the board's attention because the configuration itself presents somewhat of a hardship for us.

Mr. Salerno: Is their property between you, Jon, and the Vakils?

Atty. Revelli: Yes.

Mr. Salerno: The doctors' house?

Atty. Revelli: No. No, his goes down along his side of the street and down to the very beginning of Spring Street.

Mr. Salerno: No, I'm sorry; I mean the last house on the left before you enter the Massads.

Atty. Revelli: No, the Vakils have their frontage, I believe, right directly behind them. The map that Mr. Rosen is passing around shows the overall frontages.

In any event, I bring that to the board's attention because, although the configuration itself is a hardship, it doesn't derogate from the intent of the rules of the subdivision in that there is almost a complete parcel between myself and my immediate neighbor. So, I'm about 150 ft. away from my closest neighbor. So,

although I'm asking for this relief from the setback requirement, my pool won't be anywhere close to my neighbor's property. It's going to be nowhere under their window or anything of the like.

I've taken it upon myself and we've gone to our neighbors homes, the Agnellis directly behind us, the Lakes directly next to us, the Ostbergs, the Dudleys and the Massads and none of them are opposed to the request for this variance.

The second hardship itself is the lot itself because of where the lot itself is situated. It mirrors where Ward Hill is, Main Street being the valley and Ward Hill being the peak and on the other side of it goes up to our area. So, there's a substantial pitch in the lot itself. If we were to conform with the building permit and the bylaws at this particular point, we would have to move the pool much closer to Spring Street itself. It would require us to build a very large retaining wall in order to do it. If we move it closer to the lot line, we're going to be on a more level surface that has been filled in in that area. Given the amount of fill that was placed there by the original developer, we're not going to hit any ledge there.

The third issue is that it was named Grayledge for a reason. We're trying to avoid hitting that vein of ledge that's there.

We believe that the variance can be granted without substantial detriment to the public good. We've spoken with or at least attempted to speak with all of our neighbors. There is no opposition that we know of. We don't believe it derogates from the intent of or the purpose of the bylaws in that we're not very close to our neighbor's property. There's a parcel of property in between us that buffers an area of buffer zone between ourselves and our neighbor's property.

Mr. George: How close would you be to the embankment of your next door neighbor?

Atty. Revelli: How close would the pool itself be?

Mr. George: Yes.

Atty. Revelli: Probably about 60 ft. That would be my best guess. I do have a series of photographs. You can see that we tried to draw in about where the pool is going. Excuse the artist's rendition. I did that myself.

Mr. Salerno: Ron, if the easement were a road, would he be a corner lot?

Atty. Revelli: I believe I would.

Mr. Alarie: You mean the driveway access?

Mr. Salerno: Yes.

Mr. Alarie: Yes, but that would actually not aid them because he wouldn't have a rear lot line subject to a 30 ft. side yard setback from both lines. So, he would be back in the same position.

Atty. Revelli: This bottom photograph is the proposed pool. So, it's a "kidney shaped" as they call it and should fit in with the character of the house and neighborhood.

Mr. Salerno: Mr. Massad has a pool at the top of the hill?

Atty. Revelli: He does.

Mr. Salerno: So, you'd be the only other house on the street with a pool, right?

Atty. Revelli: Yes.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On June 1, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Jon L. Revelli, 351 Spring Street, Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 10 ft. from the side lot lines of property located at 351 Spring Street.

Upon review of this appeal, the board found that there are several conditions affecting the subject premises that warrant the issuance of relief from the literal application of the minimum terms of the Zoning Bylaw that would permit the installation of the swimming pool as proposed. They noted that arrangement of lots in this vicinity of Spring Street are rather unique as the body of many of the parcels are very remote from their actual road frontages and are connected thereto by long strips of land, some of which are over 800 ft. in length. They noted that the pool would abut such a strip, which is 20 ft. in width, and that it would be sited over 100 ft. from the residence situated upon the next adjoining lot. The access to these properties is gained via a common driveway which originates within the appellant's frontage and traverses the southerly side of his lot. Furthermore, the topography of this area rises sharply from Spring Street to the top of the common drive-ay. The majority of Mr. Revelli's property is steeply

graded with the area where the pool is to be located perhaps the only relatively flat part.

It was the board's opinion that these conditions present an undue hardship to the appellant and that, in this instance, the reduction of the minimum setback for this subsurface structure would not seriously depart from the intent of the bylaw and that it would have no impact upon the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Derek A. Grillo, 30 Cedar Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Derek A. Grillo, 30 Cedar Road, Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front and Side Yard Requirements and Maximum Lot Coverage Percent, Residence B-2 District, and a special permit as required by Section IV, Subsection B, to allow the construction of additions 15 ft. from the sideline of Shannon Drive, maintaining the existing front yard setback from Cedar Road and 3 ft. and 9 ft. from the side lot lines of property located at 30 Cedar Road with a total lot coverage of approximately 34 percent of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 45 as Plot 186.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 17, 2004 and May 24, 2004.

Mr. Salerno: Counsel, identify yourself and your client for the record and make your presentation.

Atty. Holland: I'm Atty. James Holland. I maintain an office at 7 State Street in Worcester. This is my client, Derek Grillo, who purchased the property on January 28, 2004.

Mr. Salerno: You can sit down gentlemen.

Atty. Holland: Derek, obviously, has retained me to represent these appeals because he's currently living with his grandparents in Shrewsbury and wishes to return to the town. Obviously, he's seeking relief due to the fact that.

I'm sure you have viewed the property and realize that it's substantially in disrepair. Since the time that I met with Mr. Alarie, the architect, David Krom, has given us drawings of what is proposed to be the front, which would be on Shannon Drive. It has also got the first floor and second floor plans. The proposal would be to create an approximately 2,200 sq. ft. house with 2 ½ baths and 3 bedrooms. The bedrooms would be on the second floor and the living area, obviously, would include expanding the first floor.

Currently on the lot is the preexisting structure which, obviously, needs substantial care and concern. It would be impractical for him to really try to improve what's there. Basically, it can be occupied, but we need to replace the heating, plumbing, electrical, etc. With this proposal, you can see what we're proposing. Also, right now the frontage is on Cedar Road and we intend to keep the garages there. With Mr. Alarie's help, we measured it and, in my petition, due to the fact that we are going to raise up a second story as you can see from your drawings, the frontage would be proposed on Shannon Drive. So, as a result, the house will be slightly angled so that, at its closest point, it would be 15 ft. from Shannon Drive and 19 ft. at the other end due to the angle of the lot.

The hardship, obviously, exists with respect to the size of this lot. It's a preexisting lot that was formed well before the adoption of building and zoning codes. When you subsequently created the Shannon Drive Subdivision, you actually created a situation where we have a corner lot with a new subdivision around it. With respect to this lot, what's unusual from the other lots there is that, not only the fact that it's a corner lot, but the retention pond and the way that you configured the Shannon Drive Subdivision. Visually, when you look out that back, you seem to have plenty of open area and across the street you have wetlands. So, we would not have a density issue at all with respect to the proposed construction. Also, if you look at the lot sizes on Shannon Drive, this house would be similar in style and structure to those homes. So, it would be compatible with the neighborhood.

Obviously, there would be no substantial detriment to the building and zoning laws in the Town of Shrewsbury in that it's going to be a single family house, which it presently is. So, we would not be increasing traffic or seeking excessive uses of your town services as well. Certainly, the house would fit in substantially better than what is there now. If you look at the plan, a lot of the decks would be removed, a second story with windows and the decks would be on the back. Certainly, the residents themselves would be greatly appreciative of the

improvement of the structure since it's a little invading inside as well as outside and needs complete and substantial renovations.

Also, the key affect of the zoning ordinances is that we do need special permits to make these changes and we feel that it would be compatible with the other houses in the neighborhood. Obviously, the purpose of your zoning laws is to provide consistent use and also consistent visual compliance with your laws. As a consequence, I think the proposal would do that without any detriment to the neighborhood at all.

Obviously, the hardship exists that if he can't go forward with it, very little could be done with the present structure. We can't give you further renderings until, obviously, we have the results of this decision because he has incurred substantial expense up to this point. We can't complete all of the drawings from a financial aspect because the architect certainly wants to know whether or not these variances and special permits would be there.

Mr. Salerno: So the house plan, Atty. Holland, that's submitted is what the structure is proposed to look like?

Atty. Holland: Correct.

Mr. Salerno: You just don't have the exact dimensions?

Atty. Holland: Oh, we have the exact dimensions to that extent. In terms of all the final plans that would be submitted to the building department, he hasn't completed those as yet. We're not changing, at all, the outer dimensions, etc.

Mr. George: The total size is what, 2,200 sq. ft.?

Atty. Holland: About 2,100 to 2,200 sq. ft.

Mr. George: What's the size of the lot?

Atty. Holland: It's less than 6,400 sq. ft. which is where the substantial hardship comes in. But, the fact that you're on a corner lot, it's not readily apparent that you're denigrating from the bylaw if you grant the variances and your special permits from visually looking at it. I'm sure you saw the view. When you look in back with the fence and the retention pond and the way that Shannon Drive is constructed, you have substantial open area when you look out either side yard. You'll see that the road will be one of the side yards. Then looking in the back, you're going to be looking at pretty much all open space all the way up to the top of Shannon Drive.

Mr. George: What's the total lot coverage with this building?

Mr. Alarie: It's 33.7 %.

Atty. Holland: It's 34 %. That's substantial also, but what else could you do on that size lot given the fact that it's a preexisting lot? Actually, the house in question covers, I would say, substantially close to that right now.

Mr. Alarie: The maximum lot coverage is 30 % in that district. You're increasing it by about 3.7 %

Atty. Holland: I would suspect that the lot in question and the house in question, with its size now, approaches that.

Mr. Gordon: Ron, when we permitted Shannon Woods, was some land taken from this particular house where the stone wall is?

Mr. Alarie: I don't believe so.

Atty. Holland: It didn't appear, at least in the title search that we did, that it was reduced. What I note is that we're subject to the rights to that retention pond, etc.

Mr. Gordon: No, no. I'm talking about the wall in front that's on Shannon Road.

Atty. Holland: I'm saying that there was no taking.

Mr. Gordon: There was no taking of that?

Atty. Holland: On the title there wasn't anything shown.

Mr. Salerno: So, essentially, it's a 3 % increase over what's there plus the updating of it aesthetically.

Mr. Gordon: The 4 neighbors, this one being included, their back yards are a detention pond going all of the way up the hill. So, you basically have no back yard. Is that correct?

Atty. Holland: Right, but the plans call for decks so that's going to substitute for what's there now. Most of their things would be done on the deck anyway with the view out towards the retention pond.

Mr. Salerno: Do any board members wish to inquire?

Mr. Gordon: I personally think it's a great improvement over the existing house. I've been inside of it and it's strange. It seems like the previous owner was a little different. They didn't live there full time. I believe they were from New Hampshire?

Atty. Holland: Correct. We have a substantial barbeque pit, I guess you would call it, inside the house.

Mr. Grillo: It occupies most of the living room.

Mr. Gordon: They were a little different.

Atty. Holland: We're not planning on keeping the barbeque pit. We do have some of these plans available in case there are any neighbors that want to see them.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Counsel, seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Atty. Holland: I just have one comment to make. I do most of my practice, as some of you know, in Worcester. I just think that sometimes when people come before your board they should compliment the people in not only the clerk's office and Mr. Alarie's office and Ann Dagle. The level of cooperation is wonderful. I practice in some areas where it's less than entertaining, shall we say. They were very, very helpful and informative, which I think is fortunate and we should compliment them and be aware of that.

Mr. Gordon: You've discovered why a bunch of us have moved to this town.

Mr. Salerno: We are well aware of the crack staff at the head of the table here. Thank you.

Decision

On June 1, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Derek A. Grillo, 30 Cedar Road, Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front and Side Yard Requirements and Maximum Lot Coverage Percent, Residence B-2 District, and a special permit as required by Section IV, Subsection B, to allow the construction of additions 15 ft. from the sideline of Shannon Drive, maintaining the existing front yard setback from Cedar Road and 3 ft. and 9 ft. from the side lot lines of property located at 30 Cedar Road with a total lot coverage of approximately 34 percent of said property.

The board noted, upon review of this appeal, that the subject premises is nonconforming in several regards, most noticeably, its size as it contains just over 6,000 sq. ft. of land area. The existing structure, which was only a capped foundation for a number of years, was built well before the adoption of the current zoning regulations, is in a state of disrepair and in need of modernization. Mr.

Grillo proposes to expand the structure and convert its current "A Frame" appearance to a more conventional Colonial style home.

It was the board's opinion that, due to the size of this parcel and the condition of the existing dwelling thereon, the literal application of the relevant provision of the Zoning Bylaw would impose a substantial hardship to the appellant in his attempt to upgrade this property. They noted that both the variance and the special permits requested are only moderately altering the existing setbacks of this lot and felt that, in this instance, the granting of the relief requested would neither seriously depart from the intent of the bylaw nor materially change its nonconforming configuration. They further noted that, although the layout of the property is small, visually it appears much larger as it is surrounded by a vast area of open space dedicated as drainage easement for the adjacent Shannon Woods subdivision. The members found that the improvements proposed by Mr. Grillo would substantially enhance this site to the benefit of the neighborhood and that they would not create any condition that would be detrimental to the welfare of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Bark Unlimited, Inc., 455 Hartford Turnpike, Shrewsbury, MA.

PURPOSE: To hear the appeal of Bark Unlimited, Inc., 11 Robin Lane, Westborough, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the wholesale and retail sale of landscaping products and by-products upon property located at 455 Hartford Tpke. The subject premises is described on the Shrewsbury Assessor's Tax Plate 48 as Plot 14.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on May 17, 2004 and May 24, 2004.

Mr. Salerno: Counsel, identify yourself and your client for the record and make your presentation.

Atty. Ricker: Yes, if I could Mr. Chairman and members of the board, my name is Richard Ricker. As you know, I'm an attorney practicing with offices at 11 Maple Ave. in Shrewsbury.

Atty. Ricker posted plans on the board.

Atty. Ricker: With me tonight is Jeff Alcock. He's the president and the operator of Bark Unlimited. He's the gentleman seated next to me. Also, I would like to note that the owners of the property are also seated to the rear of the room. Actually, they are seated right here, Edward and George Russell. They are the landlords. Mr. Alcock, as Bark Unlimited, is leasing this particular property.

This proposal would call for the use of a very small portion of the overall lot. I think the acreage of the large lot is somewhere in the several acres.

Mr. E. Russell: Seventeen and a half acres.

Atty. Ricker: There are 17 acres there, 17.5 acres. This takes a small section of that site. It is kind of a cutout section of the lot and somewhat isolated from the rest of the lot. The rest of the lot comes up Route 20 and then goes up the hill. In this particular section here, this was where the DMS operation was. They have vacated the premises. Mr. Alcock would take the existing building and make a portion of it offices for his operation. He would retain this chain link fence here in the front. He would put a chain link fence here so that he could store all of his equipment to the rear of the building and to the rear of the fence.

Presently, if you've been up there recently as I'm sure you have, there are a few trailers there. They would be moved to the rear of the building, to the rear of the fence as well. The only thing that would be in view for the public, so to speak, are the 3 mulch piles and the stone product that he would be selling. He plans to construct the storage bins along the right-hand side as you're looking at it from Route 20.

The lot is somewhat paved now. What he would do is use crushed asphalt to basically coat the lot and make it secure. He has a sweeper on site so that the property would be swept on a daily basis as he tells me.

With respect to the use, I would suggest to the board, respectfully, that this is an industrial area. This property is surrounded by industry and by businesses. This would seem, at least in my opinion, to fit in with what the Master Plan as has been put forth as much as this type of business belongs down in this particular area. I would suggest that it doesn't add any nuisance or detriment to the neighbors or to the neighborhood in general. It's fitting for that particular site.

He is presently operating further up Route 20. He would move his operation down to this site. I'm told that his hours would be 7:00 A.M. to 5:00 P.M., Monday through Saturday, and that there will be no Sunday operations.

With that, perhaps you have some questions.

Mr. Salerno: Just a couple. This is for the retail sales?

Atty. Ricker: For both wholesale and retail, yes.

Mr. Salerno: He doesn't want Sunday operations?

Atty. Ricker: He doesn't plan on Sunday operations.

Mr. Alcock: Presently, we don't operate on Sundays.

Mr. Gordon: Why don't you ask for it incase you want to?

Atty. Ricker: Can we have it?

Mr. Gordon: I don't know yet.

Mr. Salerno: Why don't you amend it? I mean, the homeowner is coming there. You see Home Depot, you see these other places that sell similar products open.

Mr. Gordon: They're open on Sundays.

Mr. Salerno: A lot of them are open on Sundays. Bigelow is right down here on West Main Street. They have a Sunday operation for mulch.

Mr. Gordon: Do you think that they might want limited hours on Sunday?

Mr. Salerno: Yes.

Atty. Ricker: Although he certainly hasn't asked for it and wasn't thinking along those lines, certainly he would appreciate the extension of Sunday hours.

Mr. Salerno: Is there any further inquiry by the board?

Mr. Gordon: I have some questions.

Mr. Salerno: Go ahead.

Mr. Gordon: I understand that you're leasing this property, so it is owned by others.

Atty. Ricker: That's correct.

Mr. Gordon: How far out do you go? Do you go out to the piles of dirt and trash or before that?

Atty. Ricker: If I can address that? I questioned him about that based on my view of the site. If you've been out there recently, there's an old bulldozer which is parked right about here. As you know Mr. Gordon from looking at the site, those piles are over in here. His operation stops right here. However, the Russells and ourselves have had some discussion about the removal of, I guess, a couple of vehicles that are there and the trash. It's my understanding that they do have plans to remove that.

Mr. Gordon: I think the vehicles violate the town bylaw.

Atty. Ricker: I just explained that to them. Maybe they want to say something about this themselves. I can't speak for them, but we have spoken about that.

Mr. Gordon: We changed the bylaw 2 years ago so that you can have 1 unregistered vehicle per property.

Mr. Alarie: That's correct.

Mr. Gordon: They have more than that so, if they can be removed, I think this would be in concert with the bylaw.

Atty. Ricker: Right. I wasn't aware of that until I viewed the site myself and, frankly, spoke with Mr. Alcock about it. He informed me that it was the Russells' property and so we brought it up with them tonight. I believe that they would tell you that their plans are to remove them.

Mr. E. Russell: Those vehicles are going to be removed. Everything that's on the property is definitely going to be removed.

Mr. Gordon: Now, I'm not as concerned about the 10 or 12 piles of dirt as I am about the 2 piles of somebody's trash that they probably dumped on your property. I have that happen all the time so I understand it.

Mr. G. Russell: Excuse me just a minute.

Mr. Gordon: Yes, who are you?

Mr. G. Russell: My name is George Russell. I want to inform the town that I contacted the police prior coming down here. There's 1 pile of rubbish that somebody had the nerve to come by and drop off. Prior to that, I would say that a week before that there was a corporation, a driveways corporation, that was

dropping all kinds of cement, bricks, and everything there. I found out who it was and contacted the company. The company came and removed it, I think, within 2 days. At the same time I contacted the police department and posted the land. After it was posted and after we spoke to the police, somebody came and dropped 1 load of garbage.

Mr. Gordon: Mr. Russell, I have property in Worcester and it happens all the time I'm sorry to say.

Mr. G. Russell: Unfortunately, unless somebody's over there all the time with a 50 caliber machine gun to keep them away, they just do it.

Mr. Gordon: I think you'll find that with somebody there, there will be less dumping.

Mr. Alcock: Absolutely.

Mr. G. Russell: Of course, when he comes in there, there's not going to be that large an amount of dumping that's going in there now.

Mr. Gordon: As I said.

Mr. G. Russell: And the bulldozers are part of that operation and leveling it.

Mr. Gordon: Okay, I'm glad we can do that.

Atty. Ricker: Can I also point out that Mr. Alcock is going to be doing a couple of other improvements to the property. He's going to be putting in some landscaping and some fencing in here, rail fencing, as well. As I said, he's going to be improving the building as well. He started that already. I would suggest, respectfully, this is a great improvement to the property from what's been there before.

Mr. Salerno: Can I ask you, counsel, that it appears to me, at least the thought crossed my mind, that this almost is a seasonal operation. What will happen in the "off season?"

Atty. Ricker: He'll be looking to do firewood in the fall. In the wintertime, he still operates his trucking business. The trucks would be stored to the rear of the building. So, he does do some deliveries for Garelic Farms and one other company.

Mr. Salerno: Would you tell us or give us an explanation on what would happen with the cord wood that's going to be there. How is that going to be presented on the site? I mean, we know mulch is going to be piled.

Mr. Alcock: It's going to be the same location as the mulch piles, basically, piled up in the same area.

Mr. Salerno: It will be piles of cordwood?

Mr. Alcock: Yes, correct.

Mr. Salerno: Precut?

Mr. Alcock: Precut, yes. It is all piles of preprocessed firewood.

Atty. Ricker: That's why I specifically included that in the request.

Mr. Alarie: Mr. Chairman, can we just get one stipulation that there would be no processing of earth material or anything of that nature taking place on here or on any part of this property.

Mr. Salerno: Isn't their request just for retail and wholesale sales?

Mr. Alarie: Right. Not that there are a lot of neighbors in the vicinity, but we have had problems at the present site.

Mr. Salerno: There will be no manufacturing, no processing?

Mr. Alcock: No.

Atty. Ricker: He doesn't process anything.

Mr. Alcock: I get everything processed.

Mr. Gordon: We could put that in the decision that there would be no processing, just the sale of your products.

Atty. Ricker: That would be no problem.

Mr. George: We asked about where the rubbish was dumped. Is there access from Route 20 there? Is there a driveway?

Atty. Ricker: No, it's wide open.

Mr. Gordon: It's just wide open.

Mr. George: There's no berming or anything to keep people out?

Atty. Ricker: No, it's just wide open. In fact, it's just dirt. It's really a cleared, dirt lot.

Mr. George: So, there's no way of keeping people out of there?

Atty. Ricker: You know what it is, Mr. George, it's the cleared really brown dirt lot between this facility and then a truck and the church road and new distribution building, the new building up in back.

Mr. Salerno: Yes, sir.

Mr. E. Russell: I'm Edmund Russell. For your information, on that parcel where they've been dumping all of the gravel and the rubbish and everything, that's all going to be leveled off. That's in the process of being done now. All along the front of the highway up to the parcel that he's going to be using is going to be blocked off. So, there will be no exits. Also, once he's over there, you're not going to be finding people going in and out because, as it is right now, the place looks deserted.

Mr. George: That's why this is happening.

Mr. E. Russell: That's right, but that will all be blocked off from the highway.

Mr. Salerno: Okay, seeing no further inquiry, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On June 1, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Bark Unlimited, Inc., 11 Robin Lane, Westborough, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the wholesale and retail sale of landscaping products and by-products upon property located at 455 Hartford Tpke.

The board noted that the appellant proposes to use only approximately 2 acres of this

17 acre site, including the existing building situated thereon, for the aforementioned purposes. They further noted that this area of the parcel has been utilized by a number of automotive related nonconforming businesses for a number of years, most recently by a towing company with ancillary repair facilities and an open vehicle storage yard. It was their opinion that the proposed change in use of this property would significantly improve it's appearance, would be more compatible with the other businesses and properties in this vicinity of the Route 20 corridor and that it would not materially depart from the general character of those activities permitted within the Limited Industrial District. It was, therefore, unanimously voted to grant the appeal as presented to the board

subject to the restriction that there shall be no processing of landscaping, earth materials or wood products upon any portion of the 17 acres of this site.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes